

## Remarks

Reconsideration of the present amendment, as amended, is respectfully requested.

Of previously pending claims 1-25, all were rejected. Claims 1-4, 6, 8, 17, 22 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by newly cited U.S. Patent No. 6,690,884, which issued February 10, 2004 to M.A. Kelty *et al.* The applicants have amended claims 1, 3, 4, 6, 12 and 17; claims 8 and 22-25 have been canceled.

The applicants address their arguments with respect to independent claims 1, 6, 12 and 17. Independent claim 1, as amended, calls for “amplifying said first measurement optical signal.” Independent claim 6, in a similar manner, has been amended to combine the limitation of canceled dependent claim 8 to include the element, “an optical amplifier that boosts said portion of said optical data signal,” and independent claim 12 has similar limitations for the first and second link monitors. Claim 17 has been amended to add, “means for amplifying said portion of said optical data signal.”

Since only dependent claim 8 contains language similar to the language added to the independent claims, the applicants address their arguments toward the rejection of independent claim 6 which added the limitation of claim 8. Claim 8 was presumably rejected for obviousness under 35 U.S.C. §103(a) over the above-cited Kelty patent in view of previously cited U.S. Patent No. 5,436,750, which issued July 25, 1995 to T. Kawano. The Examiner stated:

Regarding claim 6, Kelty et al discloses optical transmission system, shown in Fig. 4, comprising:

a coupler that separates a portion of an optical signal traveling along said link (as shown in Fig. 4, optical distributor (30) separates portion of optical signal to form first measurement signal);

an optical receiver that recovers data based on said portion of said optical signal (see col. 7, lines 1-19);

error correction decoding circuit that identifies number of detected errors in receipt of said data; and a link verification stage that generates an indication of link operation based on errors identified by said error correction decoding circuit (see col. 7, lines 1-9).

Regarding claim 8, in Fig. 5, Kawano discloses an optical amplifier that boosts portion of said optical signal (in col. 1, lines 54-56, Kawano discloses erbium-doped fiber for amplifying the optical signal).

The applicants respectfully disagree with the rejection. Even with the combination of the two references as the Examiner urges, the invention claimed by the applicants is patentably distinguishable. Independent claim 6, which is for an “[a]pparatus for monitoring performance of an optical communication link at an intermediate location along said link,” comprises “a coupler that taps a portion of an optical data signal traveling along said link;” and “an optical amplifier that boosts said portion of said optical data signal.” Thus it is the tapped portion of the optical data signal which is amplified or boosted.

As the Examiner implicitly recognizes, the Kelty patent has no optical amplifier as the applicants claim. In the Kawano patent, the optical signals along the link itself are boosted. As stated in col. 4, lines 46-53, “As [i]llustrated in Fig. 5, each repeater station comprises an optical combiner, or wavelength division multiplexer 30 wherein an incoming optical multiplex signal is received through an transmission channel and routed to an erbium-doped optical fiber loop 31 where the signal is directly amplified with excitation light of energy of a laser in a known manner.” Kawano teaches the amplification of the optical signals in the link, not a portion which has been tapped off.

Hence the combination of the cited references does not teach the invention recited in independent claim 6 and should be allowed. By similar arguments, independent claims 1, 12 and 17 are not obvious in light of the cited patents and should also be allowable. Claims 2-5, 7, 9-11, 13-16 and 18-21 should also be allowed for at least being dependent upon allowable base claims.

Therefore, in view of the amendments above and the remarks directed thereto, the applicants request that all rejections be removed, that claims 1-7, and 9-21 be allowed, and the case be passed to issue. If a telephone conference would in any way expedite the prosecution of the application, the Examiner is asked to call the undersigned at (408) 868-4088.

Respectfully submitted,

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